

Remarks and Arguments

Claims 1-21 were presented for examination. Claims 1, 2, 4, 6, 9, 10, 17 and 19-21 have been amended. Claims 8, 12-16 and 18 have been deleted. New claims 22-25 have been added.

Claims 4 and 6 were objected to because the word “one” was missing after the phrase “at least”. In response, claims 4 and 6 have been amended to include the word “one” in the appropriate location.

Claims 8, 10, 18 and 20 have been rejected under 35 U.S.C. §112, first paragraph. Claims 8 and 18 have been rejected because the examiner asserts that the specification provides enablement only for IR transparent materials and not for all transparent materials as claimed. Claims 8 and 18 have been canceled, thereby rendering this rejection moot. Claims 10 and 20 have been rejected because the examiner asserts that the specification provides enablement only for roughened metal surfaces and not for all roughened surfaces as claimed. In response, claims 10 and 20 have been amended to specify that the plate whose surface is roughened is a metal plate. Thus, claims 10 and 20 are believed to meet the requirements of 35 U.S.C. §112, first paragraph.

Claims 2 and 15 have been rejected under 35 U.S.C. §112, second paragraph, for reciting the relative term “fine”, which the examiner asserts is indefinite. In response, claim 2 has been amended to delete the term “fine.” Claim 15 has been canceled thereby rendering the rejection thereof moot.

Claims 1, 4, 5, 11-13 and 21 have been rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent Publication No. 2003/0143316A1 (Eipel.) The examiner states that all of the claimed limitations are disclosed in the Eipel reference.

The present invention relates to a method for applying a sample to a sample position that is the size of the measurement area of an optical spectrometer. In accordance with this method, a quantity of a liquid sample is divided into a plurality of partial quantities. Each partial quantity is applied to a discrete spot in a plurality of non-contacting spots distributed across the sample position. The spots are then dried to form a sample film. Thus, a single measurement will include a plurality of sample spots. As set forth in the specification at page 5, lines 7-17, even though this method results in

an uneven surface, the sample film which is formed on the sample position is more homogeneous over the entire area of the sample position (and, thus, over the spectrometer measurement area) than if the sample had been applied to the sample position in a continuous film.

The Eipel publication discloses apparatus involving a capillary tube that can be moved in X, Y and Z directions by means of an X-Y-Z plotter in order to apply very small amounts of a sample to a multi-sample substrate. This arrangement allows large numbers of very small sample quantities to be precisely placed in sample areas on a sample substrate. However, the Eipel publication does not disclose that the sample areas are smaller than the measurement area of the measurement instrument so that many samples are included in a single measurement. In particular, in the parallel analysis of biopolymers process described in the Eipel publication, it is well-known that each sample area is used for a separate measurement so that only one sample area is included in each measurement.

The present claims have been amended to particularly point out this difference. Claim 1 is illustrative. It now recites, in lines 6-14, "... applying said quantity of sample ... in a plurality of partial quantities ... across a measurement area of said at least one sample position ... drying said quantity of sample to form a sample film across said measurement area; and spectroscopically analyzing said sample film across said measurement area ..." Support for this amendment is found in the specification at page 4, line 23 to page 5, line 17. Thus, amended claim 1 clearly recites applying a plurality of sample partial quantities within the spectroscopic measurement area. As discussed above, the Eipel reference discloses only one sample spot within a measurement area. Accordingly, amended claim 1 patentably distinguishes over the cited reference.

Claims 4, 5, 11 and 21 are dependent on amended claim 1 and incorporate the limitations thereof. Therefore, they distinguish over the cited references in the same manner as amended claim 1. Claims 12 and 13 have been canceled thereby rendering the rejection thereof moot.

Claims 2, 3, 6-10 and 14-20 have been rejected under 35 U.S.C. §103(a) as obvious over the Eipel reference. The examiner comments that the particular features recited in these claims would have been obvious to one skilled in the art. Claims 2, 3,

6, 7, 9, 10, 17, 19 and 20 are dependent, or have been amended to make them dependent, on amended claim 1 and to incorporate the limitations thereof. Therefore, they distinguish over the cited references in the same manner as amended claim 1. Claims 8, 14-16 and 18 have been canceled rendering the rejection thereof moot.

New claims 22-25 have been added to more fully and particularly point out the invention. These claims also depend from claim 1 and therefore distinguish over the cited reference in the same manner as amended claim 1. Support for new claim 22 is found in the instant specification at page 7, lines 19-21. Support for new claim 23 is found in the instant specification at page 8, lines 8-9. Support for new claim 24 is found in the instant specification at page 8, lines 10-12. Support for new claim 25 is found in the instant specification at page 8, lines 24-27.

In light of the forgoing amendments and remarks, this application is now believed in condition for allowance and a notice of allowance is earnestly solicited. If the examiner has any further questions regarding this amendment, he is invited to call applicants' attorney at the number listed below. The examiner is hereby authorized to charge any fees or direct any payment under 37 C.F.R. §§1.17, 1.16 to Deposit Account number 50-3969.

Respectfully submitted

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